

REMARKS

Claims 6, 7, 9-11 and 13-18 are pending, and claim 13 has been amended. Entry of the amendment and reconsideration of the application are requested. The amendment of claim 13 avoids the objection to that claim at office action page 2.

Claims 10, 11 and 13-18 have been rejected under 35 USC § 103(a) as obvious over Joseph et al. WO 02/085533A1 (Joseph WO02) in view of Joseph WO/98/32539 (Joseph WO98). This rejection is traversed.

Office action pages 6-7, states the inventor's declaration under 37 CFR 1.131 was ineffective to overcome Joseph WO02 because, "The Joseph (WO 02/085533 A1) reference is a statutory bar under 35 U.S.C. 102(b)". The Declaration is effective for the following reasons:

i) The statement in the office action that, "The foreign priority under 35 USC 119 does not change the 102(b) period even if priority is perfected." is incorrect. This is a U.S. national stage application from an international application (PCT/US2003/038072) which designated the United States and claims priority from British application 0229399.1 filed December 18, 2002. The PCT international application contained a timely claim to priority of the British application, was filed within one year of the British priority date, and the Declaration filed with the present national stage application under 35 U.S.C. §371 contains a proper claim to priority benefit, under 35 U.S.C §§119(a)-(d), or (f) or 365(b), of United Kingdom Application No. 0229339.1. 35 U.S.C. §365(b) states an international application designating the United States shall be entitled to the right of priority based on a prior foreign application (see also MPEP §1893.03(c)), Therefore, this application is entitled to the benefit of the December 13, 2002 priority date of British application no. 0229399.1. Since the December 18, 2002 priority date is within one year of the October 31, 2002 effective date of the reference, the reference is not a statutory bar.

ii) A statutory bar is a single reference that describes the subject matter of rejected claims or renders them obvious and is eligible as a time wise statutory bar under 35 U.S.C. 102(b), *Application of Bergstrom*, 427 F.2d 1394, 166 U.S.P.Q. 256 (C.C.P.A. 1970). Although Joseph WO02 may qualify as prior art under 35 U.S.C. 102(b) for use in an obviousness rejection combined with another reference, it is not a statutory bar because it is missing a claim element and is not sufficient, by itself, for a rejection. The missing element is a collar integral with the tubular body of the filter that fits in the filler opening of the lid of the container of the claimed assembly (of

claim 10) or combination (of claim 11) so that the filter body extends away from the opening within the container. The insufficiency of Joseph WO02 as a reference by itself is admitted at office action page 3, lines 15-16. Joseph WO98 was cited by the office to furnish a teaching of a filter with a collar integral with the filter body and that fits in a filler opening (office action page 3, last paragraph).

A contention of obviousness based on Joseph WO02 alone would fail because: As to all the rejected claims, the drop-in sock filter disclosed in Joseph WO02 does not have an integral collar that fits a filler opening so that the filter body extends away from the opening within the container of a liquid supply assembly (claim 10) or a combination as claimed in claim 11; and As to claim 15, there is no disclosure in Joseph WO02 of a filter tubular body oriented at an angle that is not parallel to the side wall of the liquid supply assembly container. The angled orientation facilitates filling the container of the claimed liquid supply assembly without having to detach the spray gun (specification page 14, lines 12-15 and page 19, first full paragraph). The modifications necessary to Joseph WO02 in order to overcome the differences between it and claims 10, 11 and 15 are not obvious to a person of ordinary skill. Joseph WO02 would not be a sufficient reference, by itself, under 35 U.S.C. §103(a) because of the differences between the rejected claims and the reference.

Claims 6, 7 and 9 have been rejected under 35 U.S.C. 103(a) as obvious over Joseph WO02 and Joseph WO98 in view of Williams U.S. Patent 5,061,303. This rejection is traversed. Joseph WO02 has been avoided by the Rule 131 Declaration, and there are further reasons supporting non-obviousness discussed below.

The contention (in the paragraph bridging office action pages 5-6) that Williams discloses a cage 40 sufficiently flexible to allow filter 24 to collapse along its whole length if the container containing it collapses, as shown in Fig. 4 is incorrect. Williams' filter units are designed for use in a dust collector, an apparatus used to filter dust from a gas stream, and one function of his design is to prevent collapse of the filter bag (column 5, lines 8-15). The upper portion of his filter unit is designed to distort under a squeezing force exerted by a worker (removing or installing the unit) as taught in Williams column 5, lines 53-62, column 6, lines 11-37 and Fig. 4. However, Williams' filter unit will not collapse along its whole length during use. Its structure would not permit such collapse. His filter unit has a plurality of longitudinal supports (metal rods 48 combined with

retainer ring 50) to maintain the filter bag in a tubular configuration (column 4, line 65-column 6, line 5). It is the upper end of Williams' filter unit that has biasing means (combination of collar portion 42, snap band spring 46, rods 48 and garter spring 54) allowing the upper end to be squeezed down during removal or installation. Williams' cage structure will not collapse along its whole length because the part below garter spring 54 comprises the combination of rods 48 welded to retainer ring or rings 50 (column 5, lines 8-34). Williams Fig. 4 only shows the top part of his filter unit collapsing, not the whole unit. It does not support the assertion made in the office action.

The paragraph bridging office action pages 7-8 states that the limitation to a cage sufficiently flexible to collapse along its whole length if the container containing it collapses is a functional recitation which must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention. That is indeed the case, as just discussed, since Williams' structure with its combination of rods welded to a retainer ring or rings could not collapse as required in claim 6.

A skilled person would not contemplate the collapse of Williams' cage as a container containing it collapsed because the container in which his filters and cages are located (dirty air chamber 14 in his Fig. 1) is part of a dust collector that does not collapse in use; whereas, the container of claim 6 is intended to collapse as liquid paint is withdrawn from it. The inventive combination of a collapsible container with a collapsible filter inside is unique to the present invention, i.e., both collapse intentionally as paint leaves the container through a spray gun.

Rejected claim 6 is to the liquid supply assembly of claim 10 that also requires a cage surrounding the tubular body of the filter; whereas, Williams' cage structure 40 is inside his filter bag 38 (Fig. 2 and column 5, lines 8-15) and does not surround the filter. Office action page 7, lines 11-12 says, "...Williams teaches a cage 40 that surrounds the interior surface of the filter 24..." To take a position that the word "surrounds" in the context of claim 6 means surrounding the interior of a filter, when claim 6 says that the cage surrounds the tubular body of the filter, is clearly untenable. Williams' filter bag surrounds his cage.

The use of Leliaert U.S. Patent 3,853,509 column 3, lines 36-45, to support a contention that it is well known to provide a cage on the outside of a filter (at office action page 7, lines 12-18) is specifically traversed. Like Williams, Leliaert is a teaching related to filters for filtration of gases, such as dust collectors (Leliaert column 1, lines 3-19, Figs 1 and 1a). Rejected claim 6

requires the combination of a collapsible container and a flexible, collapsible filter surrounded by a cage sufficiently flexible to allow the filter to collapse along its whole length if the container collapses. Even though Leliaert has an outer cage around his filter bag, he brings one no closer to rejected claim 6 than Williams.

Leliaert has been cited for one part (outer cage 62); while, ignoring the rest of his teaching. The reference as a whole should be considered, including parts that may be contrary to the assertion of obviousness. Leliaert does not just teach a filter with an outer cage. He teaches a filter bag 40 disposed between an outer cage 62 and an inner cage 60 in a star design (column 3, line 57-column 4, line 18 and Figs 3-5). The star design of the cage allows closer spacing of filter tubes in a filtration apparatus than conventional cylindrical tubes (column 3, lines 51-67). Leliaert's filter tube structures are not collapsible. With reference to his Fig. 3, Leliaert's outer cage is not collapsible, since it is secured by longitudinally spaced star ring member wires 78 (column 4, lines 51-56). Its collapse would also be greatly hindered by the inner cage which is held in place by rigid cross wires 70 (column 4, lines 30-34).

The grant of a patent on the currently pending claims will not withdraw anything previously available to the public through the knowledge of the prior art available when this application was first filed and the exercise of ordinary skill. The liquid supply assembly of claims 6, 7, 9, 10, and 14-18 and the combination of a spray gun and a liquid supply assembly of claims 11 and 13 are particularly advantageous in the field of spray painting. They allow the filling of a collapsible container with paint through a filter that filters the paint before it is applied but which still allows the container to collapse as paint is sprayed. The liquid supply assembly of claim 15 allows the convenient filling of the container with the spray gun attached.

In view of the above discussion, it is respectfully submitted that claims 6, 7, 9-11, and 13-18 are in condition for allowance. Withdrawal of the rejections under 35 U.S.C. 103 are requested and a notification of allowability is respectfully solicited.

Respectfully submitted,

December 14, 2009

Date

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